

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Cappelletti Family Partnership, (Claimant) vs. Capital Securities of America, Inc., Baruch Coleman, and Robert Hartley, (Respondents)

Case Number: 96-05823

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Cappelletti Family Partnership, hereinafter referred to as "Claimant": Dan Druz, Esq., a sole practitioner, Manasquan, NJ. Previously represented by: Andrew Giles Freda, Esq., Freda & Druz L.L.C., Teaneck, NJ.

Respondent, Capital Securities of America Inc. ("Capital"): David W. Schmidt, Esq., Lubiner & Schmidt, Kenilworth, NJ. Previously represented by: Matthew V. Bartle, Esq., Bryan Cave LLP, Kansas City, MO.

Respondent, Baruch Coleman ("Coleman"), appeared *pro se*. Previously represented by: David W. Schmidt, Esq., Lubiner & Schmidt, Kenilworth, NJ and Matthew V. Bartle, Esq., Bryan Cave LLP, Kansas City, MO, respectively.

Respondent, Robert Hartley ("Hartley"), appeared *pro se*. Previously represented by: David W. Schmidt, Esq., Lubiner & Schmidt, Kenilworth, NJ and Matthew V. Bartle, Esq., Bryan Cave LLP, Kansas City, MO.

CASE INFORMATION

Statement of Claim filed on or about: December 26, 1996.

Claimant signed the Uniform Submission Agreement: January 14, 1997.

Joint Statement of Answer filed by Respondents on or about: April 11, 1997.

Capital signed the Uniform Submission Agreement: April 11, 1997.

Coleman signed the Uniform Submission Agreement: March 11, 1997.

Hartley signed the Uniform Submission agreement: March 11, 1997.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; breach of fiduciary

duty; violation of federal and state securities laws; violations of the rules and regulations of the NASD, Inc. and various national exchanges; fraudulent and negligent conduct; unsuitability; fraudulent falsification of account documents; unauthorized transactions; churning; effecting transactions on margin without authorization; misrepresentation; and failing to state material facts.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant fails to state any grounds upon which relief can and/or should be granted; any loss alleged to have been sustained by Claimant was occasioned by market movement beyond the control or prediction of Respondents and not in any degree caused by acts, representations, negligence, or omissions attributable to Respondents; if Claimant suffered any recoverable damages, Claimant failed to mitigate those damages; Claimant authorized and subsequently ratified the action or conduct of Respondents; any and all trading on margin or otherwise, engaged by Claimant was a result of his own direction; and Claimant is a sophisticated investor that risked only a small percentage of its total assets.

RELIEF REQUESTED

Claimant requested compensatory damages in the approximate amount of \$85,000.00; costs, expenses, and disbursements, including attorneys' fees; punitive damages in the amount of \$100,000.00; and such other relief as the Panel deems just and proper.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby denied in their entirety.

2. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 200.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Capital Securities of America, Inc. is a party.

Member surcharge = \$ 350.00

Adjournment Fees

Adjournments requested during these proceedings:

September 4 & 5, 1997, adjournment by Hartley = FEE WAIVED

May 18 & 19, 1998, adjournment by Hartley = FEE WAIVED

August 18 & 19, 1998, adjourned by Hartley = FEE WAIVED

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator x \$300.00 = \$ 600.00

Pre-hearing conferences: August 18, 1998 1 session
April 10, 2000 1 session

Two (2) Pre-hearing sessions with Panel x \$750.00 = \$1,500.00

Pre-hearing conferences: July 23, 1997 1 session
January 18, 2000 1 session

Six (6) Hearing sessions x \$750.00 = \$4,500.00

Hearing Dates: April 12, 2000 2 sessions
July 10, 2000 2 sessions
July 13, 2000 2 sessions

Total Forum Fees = \$6,600.00

1. The Panel has assessed \$3,300.00 of the forum fees against Claimant.

2. The Panel has assessed \$3,300.00 of the forum fees against Coleman.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Claimant, requested tapes, \$45.00.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 200.00
Forum Fees	= \$3,300.00
<u>Administrative Costs</u>	= \$ 45.00
Total Fees	= \$3,545.00
<u>Less payments</u>	= \$ 950.00
Balance Due NASD Regulation, Inc.	= \$2,595.00

2. Coleman be and hereby is solely liable for:

<u>Forum Fees</u>	= \$3,300.00
Total Fees	= \$3,300.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Regulation, Inc.	= \$3,300.00

3. Capital be and hereby is solely liable for:


<u>Member Fees</u>	= \$ 350.00
Total Fees	= \$ 350.00
<u>Less payments</u>	= \$ 350.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due and payable to NASD Dispute Resolution, Inc.

**[NO PAGES ARE MISSING - PAGE NUMBERING
IN ORIGINAL SKIPS 5 - 7]**

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Charles A. Crocco, Esq.
Public Arbitrator, Presiding Chair

8/18/00
Signature Date

Richard A. Jacobs
Public Arbitrator

Signature Date

Charles E. Stewart, Esq.
Industry Arbitrator

Signature Date

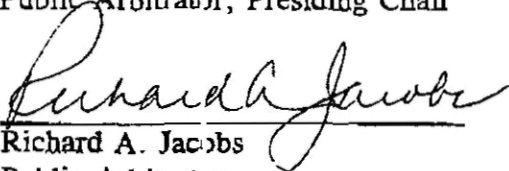
August 21, 2000
Date of Service (For NASD office use only)

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I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Charles A. Crocco, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Richard A. Jacobs
Public Arbitrator



Signature Date

Charles E. Stewart, Esq.
Industry Arbitrator

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